IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

WP(C).No. 15471 of 2007(P)

PETITIONER:

DR.ANITHAKUMARI, AGED 37 YEARS,
D/O.PADMAVATHY AMMA, PEDIATRICIAN,
E.S.I. HOSPITAL, PEROORKADA, THIRUVANANTHAPURAM.

BY ADV. SRI.S.V.PREMAKUMARAN NAIR,
SRI.R.T.PRADEEP.

RESPONDENTS:
----

1. **THE PRINCIPAL SECRETARY,**
   DEPARTMENT OF LABOUR, SECRETARIAT,
   THIRUVANANTHAPURAM.

2. **THE DIRECTOR, DIRECTORATE OF**
   INSURANCE MEDICAL SERVICES, THIRUVANANTHAPURAM.

3. **DR.R.E.GLASTIN, ASSISTANT INSURANCE**
   MEDICAL OFFICER, E.S.I. HOSPITAL,
   PARIPALLY.

BY GOVT. PLEADER SRI. BIJOY CHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) No.15471 of 2007-P

Dated this the 28th day of May, 2007

J U D G M E N T

The petitioner who is the Assistant Insurance Medical Officer has been posted as Paediatrician in the ESI Hospital, Peroorkada by Ext.P1 order. Postings of such Specialists are governed by Ext.P2. Normally, the petitioner is entitled to be there for a period of three years. But, ignoring the norms contained in Ext.P2, she has been transferred out to Parippally, by Ext.P6 order dated 16-5-2007. This writ petition was filed initially apprehending transfer. Later, Ext.P6 transfer order has been produced, under which the impugned transfer was made. The petitioner submits, she is entitled to continue for three years in the post at Peroorkada. While posting her as Assistant Insurance Medical Officer she is being demoted. So she prays for quashing her transfer.

2. Going by Ext.P6, it can be seen that the petitioner is being transferred out for administrative convenience. The petitioner's substantive cadre is Assistant Insurance Medical Officer whether she works in the Specialist post or not. Therefore, there is no question of promotion or demotion. If the Director of Insurance, Medical

Services feels that the petitioner should be transferred to a different hospital, this Court cannot interfere with the same as no appeal is provided to this Court from the decision of the second respondent. In exercise of the power of judicial review , this Court can interfere with the transfer if only it is shown that the transfer is illegal or vitiated by malafides. Except the violation of Ext.P2 and some personal inconvenience, no other ground has been raised in the writ petition. Ext.P2 only contains certain norms which can definitely be overlooked when transfer is ordered on administrative convenience.

The petitioner submits, she has represented against the transfer before the first respondent by submitting Ext.P4. If Ext.P4 is received and pending, the first respondent will consider and pass orders on it, within one month from the date of production of a copy of this judgment. The reasons given by me not to interfere under Art. 226 of the Constitution of India will not affect the powers of the first respondent to grant relief to the petitioner, in accordance with the transfer norms. Therefore, the Writ Petition fails, and it is dismissed.

K.BALAKRISHNAN NAIR, JUDGE.

MS